

**BEFORE THE MORTUARY AND CEMETERY BOARD  
OF THE STATE OF OREGON**

<p>In the Matter of the funeral establishment license of Laura Jo Hofsess and Larry Allen Hofsess dba <b>Myrtle Grove Funeral Service (FE-8507)</b>,</p> <p style="text-align: center;"><b>RESPONDENT</b></p>	<p>Notice of Proposed Disciplinary Action And Opportunity for a Hearing</p> <p style="text-align: center;"><b>CASE NO. 05-1053C</b></p>
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Pursuant to ORS 692.180, the Oregon Mortuary & Cemetery Board proposes to take disciplinary action against you on the grounds noted below. For statutory and rule violations the Board may impose one or more of the following sanctions: Reprimand; license revocation; civil penalty of up to \$1000 for each violation; or other sanctions as authorized by law.

**Grounds for Disciplinary Action:**

1. At all times mentioned herein Respondent was licensed by the Oregon Mortuary and Cemetery Board as a funeral establishment (OMCB License No. FE-8507).
2. Respondent ran an advertisement in the "Myrtle Point Herald" on March 13, 2004. The advertisement offers "Simplified Cremation \$595."
3. The Federal Trade Commission Funeral Rule requires that funeral establishments maintain a general price list with an effective date; and that the General Price List contain accurate retail prices and other information including, if offered, a separate price for a direct cremation where the purchaser provides the cremation container and a description of the services included in each price. 16 CFR 453.2(a) and (b)(4)
4. The facility's General Price List, effective March 5, 2003, lists the lowest-price of a direct cremation with container provided by the purchaser as \$745.00.

5. Respondent's advertisement therefore conceals or misstates a material fact: the correct price of the lowest-priced cremation. This fact is material as it may be relevant to a consumer's decision to engage Respondent's services.
6. The foregoing is a violation of OAR 830-040-0050(5) and OAR 830-030-0100(9), which is cause for disciplinary action under ORS 692.180(1)(g).
7. On October 7, 1998 the Board issued a Letter of Warning to Respondent reminding Respondent that advertising may not be misleading to the consumer
8. In the alternative, Respondent's General Price List for consumers, effective March 5, 2003, was inaccurate, which is a violation of 16 CFR 453.2, and cause for discipline under ORS 692.180(1)(h).
9. Definitions that may be relevant to this notice are contained in ORS 692.010, 16 CFR 453.1 and OAR 830-011-0000.

### Rights and Procedures

You are entitled to a hearing as provided by the Administrative Procedures Act (ORS Chapter 183) and ORS 692.265(1). If you want a hearing, you must file a written request for hearing with the State Mortuary & Cemetery Board (the "Board") within 20 days from the date this notice was mailed. If a request for hearing is not received within this 20-day period, your right to a hearing shall be considered waived. Hearing requests may be mailed to State Office Building, 800 NE Oregon St., Suite 430, Portland, Oregon 97232-2195.

If you request a hearing, you will be notified of the time and place of the hearing. You have the right to be represented by legal counsel at a hearing. A Notice of Contested Case Rights and Procedures is enclosed with this Notice of Proposed Disciplinary Action. If you do not request a hearing within 20 days, or if you withdraw a hearing request, notify the Board or hearing officer that you will not appear or fail to

appear at a scheduled hearing, the Board may issue a final order by default imposing discipline as imposed by the Board. If the Board issues a final order by default, it designates its file on this matter as the record for purposes of establishing a prima facie case.

DATED this \_\_\_\_22nd\_\_\_\_ day of March, 2007

**STATE MORTUARY AND CEMETERY BOARD**

\_\_\_\_<s> Lynne Nelson\_\_\_\_\_  
Designee: Lynne Nelson, Compliance Manager